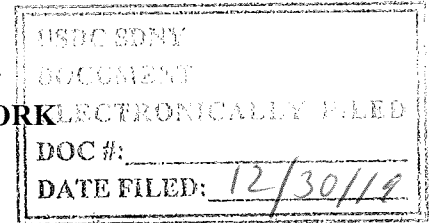


THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK



LILIANA CHRISTENSEN, et al.

Plaintiffs,

v.

GW ASSOCIATES OF NY INC, et al.

Defendants.

ECF Case
Civil Action No. 7:18-cv-05798

PROPOSED ORDER AND JUDGMENT

✓ On May 13, 2019, the parties in this Fair Labor Standards Act case filed: 1) a settlement agreement (Doc. #³⁸⁻²~~39-1~~), 2) a joint statement explaining the basis for the agreement as required by Cheeks v. Freeport Pancake House, Inc., 796 F.3d 199 (2d Cir. 2015) (Doc. #39) and 3) a proposed order approving the settlement, dismissing the action with prejudice and retaining jurisdiction to enforce the terms of the Settlement agreement (Doc. #39-3).

On May 15, 2019, the Court entered an Order approving the settlement and dismissing the action. On November 18, 2019, the Court amended its May 15, 2019 Order to clarify that it retained jurisdiction over enforcement of the Agreement.

✓ Under the terms of the Agreement, Defendants were to commence payment no later than May ²⁶~~24~~, 2019, within 10 days of the Court's approval of the Agreement. Defendants have failed to make any payments under that Agreement. The Agreement also provides that if "Defendants fail to provide any of the payments as described in Section 1 by their due date, Plaintiff shall provide written notice to Defendants' counsel, Denis Kiely, of such delinquency." Plaintiff provided such notice on May 29, 2019. Defendants have nonetheless continued to refuse to make

any payments under the terms of the Agreement. The Agreement further provides that “[i]f Defendants fail to provide the late payment within 7 days of such written notice, or if any check provided by Defendants is unable to be cashed or deposited due to insufficient funds, Defendants shall jointly owe Plaintiffs and their Counsel \$100,000.00 (the ‘Late Penalty’), payable no later than 30 days following such breach.” No payments have been made to Plaintiffs following notice of Defendants’ delinquency.

Plaintiffs now move this Court for enforcement of the Settlement Agreement and for a judgment in favor of Plaintiffs against the Defendants in the amount of \$100,000.00. Having considered Plaintiffs’ motion and for good cause shown, the Court finds that Defendants owe Plaintiffs and their Counsel the \$100,000.00 Late Penalty provided for in the Agreement, and that such payment was due by July 5, 2019. Having made no such payment to Plaintiffs and their Counsel, the Court hereby finds that Defendants are in material breach of the Agreement.

VB
grants the motion for enforcement of the Settlement Agreement and
Therefore, the Court enters JUDGMENT against the Defendants, jointly and severally, in favor of the Plaintiffs in the amount of \$100,000.00.

The Clerk is instructed to terminate the motion (Doc. #56).

So Ordered,



Judge Vincent L. Briccetti
United States District Court Judge

Date: 12/30/2019